

1 JEFFREY C. GRANT
Assistant Attorney General
2 CARRIE HOON WAYNO
Senior Counsel
3 DREW PUGSLEY
Assistant Attorney General
4 Office of the Attorney General
Complex Litigation Division
5 800 Fifth Ave., Suite 2000
Seattle, WA 98104-3188
6 Telephone: (206) 332-7099
Fax: (206) 447-1963
7 Email: Jeffrey.Grant@atg.wa.gov
Carrie.Wayno@atg.wa.gov
8 Drew.Pugsley@atg.wa.gov

Honorable Salvador Mendoza, Jr.

9 **UNITED STATES DISTRICT COURT**
10 **EASTERN DISTRICT OF WASHINGTON**

11 JAMES BLAIS and GAIL BLAIS,

12 Plaintiffs,

13 v.

14 ROSS HUNTER, in his official
capacity of Secretary of Washington
15 State Department of Children, Youth,
and Families,

16 Defendant.
17

NO. 2:20-cv-00187-SMJ

DEFENDANT'S
ANSWER TO PLAINTIFFS'
AMENDED COMPLAINT
FOR PRELIMINARY AND
PERMANENT INJUNCTION

18 Defendant Ross Hunter, in his official capacity of the Secretary of the
19 Washington State Department of Children, Youth, and Families, by way of
20 answer to Plaintiffs' Amended Complaint for Preliminary and Permanent
21 Injunction (ECF No. 30), admits, denies, and asserts as follows:

22 DEFENDANT'S ANSWER TO
PLAINTIFFS' AMENDED
COMPLAINT FOR
PRELIMINARY AND
INJUNCTIVE RELIEF
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I. INTRODUCTION

1. Defendant admits that James Blais and Gail Blais submitted an application to be to be licensed foster parents in Washington State. Defendant lacks knowledge or information sufficient to form a belief about the truth of the remainder of Paragraph 1 and, except as otherwise expressly admitted, denies the remainder of the allegations in Paragraph 1.

2. Defendant admits the allegation in paragraph 2.

3. Defendant denies Plaintiffs' generalized summary of their qualifications as set forth in paragraph 3.

4. Defendant admits the allegation in paragraph 4.

5. Defendant admits that Plaintiffs were unwilling to commit to providing safe and affirming care for H.V., or other foster children, and, thus, admits the allegations in paragraph 5.

6. Defendant admits that the Washington State Department of Children, Youth, and Families (the Department) repeatedly provided Plaintiffs with educational information about the risks lesbian, gay, bisexual, transgender, and questioning (LGBTQ+) youth face in foster care, especially when they do not receive adequate support for their identity. Defendant also admits that the Department denied Plaintiffs' application for a foster care license. Except as otherwise expressly admitted, Defendant denies the remainder of the allegations in paragraph 6.

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1 deciding whether to issue foster family home licenses, and the single state agency
 2 to decide whether to approve requests made under the Interstate Compact for the
 3 Placement of Children (ICPC), pursuant to chapter 26.34 Rev. Code of Wash., for
 4 children who are dependents in other states and seek placement in Washington.
 5 Defendant further admits that DCYF is the single state agency responsible for
 6 adopting the minimum licensing requirements for foster family homes pursuant to
 7 Wash. Rev. Code § 74.15.030, for consenting to adoption of foster children
 8 pursuant to Wash. Rev. Code § 26.33.160, and for agreeing to a permanent plan of
 9 a child placed in Washington under the ICPC, pursuant to Wash. Rev. Code
 10 § 26.34.010 (Article V subsection (a)). Defendant further admits that, at all times
 11 material to this lawsuit, Secretary Hunter acted in the course and scope of his duties
 12 as a public employee, was a state actor, and acted under color of state law.

13 **III. JURISDICTION AND VENUE**

14 13. Defendant admits the allegation in paragraph 13.

15 14. Defendant admits the allegation in paragraph 14.

16 15. Defendant admits the allegation in paragraph 15.

17 **IV. GENERAL ALLEGATIONS**

18 **The Blaisses and their Religious Beliefs**

19 16. Defendant lacks knowledge or information sufficient to form a belief
 20 about the truth of the allegation in Paragraph 16, and, therefore, denies it.

21
 22 **DEFENDANT'S ANSWER TO
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1 17. Defendant lacks knowledge or information sufficient to form a belief
2 about the truth of the allegations in paragraph 17 and, therefore, denies them.

3 18. Defendant lacks knowledge or information sufficient to form a belief
4 about the truth of the allegations in paragraph 18 and, therefore, denies them.

5 19. Defendant lacks knowledge or information sufficient to form a belief
6 about the truth of the allegations in paragraph 19 and, therefore, denies them.

7 20. Defendant admits that Mark 12:31 states, in part, that “You shall love
8 your neighbor as yourself.” Defendant lacks knowledge or information sufficient
9 to form a belief about the truth of the allegations in paragraph 20 and, therefore,
10 denies them.

11 21. Defendant lacks knowledge or information sufficient to form a belief
12 about the truth of the allegations in paragraph 21 and, therefore, denies them.

13 22. Defendant lacks knowledge or information sufficient to form a belief
14 about the truth of the allegations in paragraph 22 and, therefore, denies them.

15 **The Blaises’ Desire to Become Licensed Foster Parents**

16 23. Defendant admits that Gail Blais and her first husband had two
17 children, and that she is the great-grandmother of H.V. Except as otherwise
18 expressly admitted, Defendant lacks knowledge or information sufficient to form a
19 belief about the truth of the remainder of the allegations in paragraph 23 and,
20 therefore, denies them.

21 24. Defendant admits the allegation in paragraph 24.

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1 25. Defendant admits the allegation in paragraph 25.

2 26. Defendant lacks knowledge or information sufficient to form a belief
3 about the truth of the allegations in paragraph 26 and, therefore, denies them.

4 **The Department's Licensing Requirements for Foster Homes**

5 27. Defendant admits the allegations in paragraph 27.

6 28. Defendant admits the allegations in paragraph 28.

7 29. Defendant admits the allegation in paragraph 29.

8 30. Defendant admits the allegations in paragraph 30.

9 31. Defendant admits the allegations in paragraph 31.

10 32. Defendant admits the allegation in paragraph 32.

11 33. The allegation in Paragraph 33 is a legal conclusion to which no
12 answer is required. Defendant denies the factual allegation in paragraph 33.

13 34. The allegation in Paragraph 34 is a legal conclusion to which no
14 answer is required. Defendant denies the factual allegation in paragraph 34.

15 **Licensed Foster Parents' Duty Towards Children In Their Care**

16 35. Defendant admits the allegations in paragraph 35.

17 36. Defendant denies that Wash. Admin. Code § 110-148-1520 applies
18 only to children placed by the Department, but otherwise admits the remainder of
19 the allegations in paragraph 36.

20 37. Defendant admits the allegations in paragraph 37.

21 38. Defendant admits the allegations in paragraph 38.

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1 39. Defendant denies that Wash. Admin. Code § 110-148-1520(7) tasks a
2 child's social worker or case manager with assisting foster parents in identifying
3 the resources with which a child must be connected. Defendant admits the
4 remainder of the allegations in paragraph 39.

5 40. Defendant admits the allegation in paragraph 40.

6 **The Department's Policy to Support LGBTQ+ Children and Youth**

7 41. Defendant admits the allegation in paragraph 41.

8 42. Defendant admits the allegation in paragraph 42.

9 43. Defendant admits the allegations in paragraph 43.

10 44. Defendant admits the allegations in paragraph 44.

11 45. Defendant admits the allegations in paragraph 45.

12 46. Defendant admits the allegations in paragraph 46.

13 47. Paragraph 47 is an improper legal conclusion to which no answer is
14 required. Defendant denies the factual allegation in paragraph 47.

15 48. Paragraph 48 is an improper legal conclusion to which no answer is
16 required. Defendant denies the factual allegation in paragraph 48.

17 49. Paragraph 49 is an improper legal conclusion to which no answer is
18 required. Defendant denies the factual allegations in paragraph 49.

19 **Foster Care in Washington**

20 50. Defendant admits that, as of June 30, 2018, 9,284 children in
21 Washington were in out-of-home care. Of the children in out-of-home placements,

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3,995 were placed with relatives or suitable other persons and 5,289 were in non-relative, licensed foster care. However, as of June 1, 2018, there were 5,006 licensed foster homes in Washington with a capacity to serve 10,587 children.

51. Defendant admits that some adolescents in foster care stay in hotels each night due to a lack of appropriate foster care and group care capacity to meet these youths' behavioral needs. Defendant admits that approximately 25 adolescents are placed in out-of-state group care facilities to meet their needs. Except as otherwise expressly admitted, Defendant denies the remainder of the allegations in paragraph 51.

52. Defendant admits that it needs more placements to meet the needs of some foster children, in particular adolescents with significant behavioral challenges, special needs, or developmental disabilities. Defendant denies the remainder of allegations in paragraph 52.

The Department's Family Home Study Guide

53. Defendant admits the allegations in paragraph 53.

54. Defendant denies the allegations in paragraph 54.

55. Defendant admits the allegation in paragraph 55.

56. Defendant admits the allegation in paragraph 56.

The Blaises' Home Study

57. Defendant admits that DCYF Foster Home Licensor Patrick Sager contacted Gail and James Blais in early January 2020 and that a Foster Home

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1 Licensors are DCYF employees in the Licensing Division who recommend approval
2 or denial of foster home licenses.

3 58. Defendant admits the allegations in paragraph 58.

4 59. Defendant lacks knowledge or information sufficient to form a belief
5 about the truth of the allegations in paragraph 59 and, therefore, denies them.

6 60. Defendant lacks knowledge or information sufficient to form a belief
7 about the truth of the allegations in paragraph 60 and, therefore, denies them.

8 61. Defendant admits the allegations in paragraph 61.

9 62. Defendant lacks knowledge or information sufficient to form a belief
10 about the truth of the allegation that the mandated training, and therefore denies the
11 first sentence of Paragraph 62. Defendant admits the remainder of the allegations
12 in paragraph 62.

13 63. Defendant admits the allegation in paragraph 63.

14 64. Defendant lacks knowledge or information sufficient to form a belief
15 about the truth of the allegations that Plaintiffs “are observant members of the
16 Seventh-day Adventist faith” and therefore denies the allegation in paragraph 64,
17 part a. Defendant admits the remainder of the allegations in paragraph 64.

18 65. Defendant admits the allegation that Mr. Sager asked Plaintiffs
19 questions about H.V.’s potential sexual orientation and gender identity. Except as
20 otherwise expressly admitted, Defendant denies the remainder of the allegations in
21 paragraph 65.

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1 66. Defendant lacks knowledge or information sufficient to form a belief
2 about the truth of the allegations that Plaintiffs reacted to questions they were asked
3 during the interview and, therefore, denies the allegations in the first two sentences
4 of paragraph 66. Defendant admits the remainder of the allegations in paragraph 66.

5 67. Defendant admits that Plaintiffs stated they would provide care to
6 foster children in their care that was consistent with their religious beliefs, and that
7 they believed they could provide a supportive and loving home for a child placed
8 in their care. Except as otherwise expressly admitted, Defendant denies the
9 remainder of the allegations in paragraph 67.

10 68. Defendant admits that Plaintiffs stated that, due to their religious
11 beliefs, they could not support hormone therapy for a child in their care, but that
12 they would be loving and supportive of a child placed in their care, including their
13 great-granddaughter H.V. Except as otherwise expressly admitted, Defendant
14 denies the remainder of the allegations in paragraph 68.

15 69. Defendant admits that Plaintiffs indicated that if H.V. were in their
16 care and developed gender dysphoria or any other medical condition, they would
17 provide her with care that was consistent with existing medical principles and their
18 religious beliefs. Except as otherwise expressly admitted, Defendant denies the
19 remainder of the allegations in paragraph 69.

20 70. Defendant admits that Patrick Sager stated that, due to Plaintiffs'
21 answers to the questions regarding support of an LGBTQ+ child, their application

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1 would likely be denied by DCYF because they could not adequately support a child
 2 who identifies as, or may identify as, LGBTQ+. Except as otherwise expressly
 3 admitted, Defendant denies the remainder of the allegations in paragraph 70.

4 71. Defendant admits the allegations in paragraph 71.

5 72. Defendant admits the allegations in paragraph 72.

6 73. Defendant admits the allegations in paragraph 73.

7 74. Defendant admits the allegations in paragraph 74.

8 75. Defendant lacks knowledge or information sufficient to form a belief
 9 about the truth of the allegations in paragraph 75 and, therefore, denies them.

10 76. Defendant admits that Patrick Sager called Plaintiffs on February 26,
 11 2020 and asked, among others, the questions listed in paragraph 76, parts a. – e.
 12 Except as otherwise expressly admitted, Defendant denies the remainder of the
 13 allegations in paragraph 76.

14 77. Defendant admits the allegations in paragraph 77, which are
 15 consistent with the Department's policy and practice when conducting home
 16 studies to follow-up with applicants regarding areas of concern.

17 78. Defendant admits the allegation in paragraph 78.

18 79. Defendant admits that Mr. Sager explained during this phone call that
 19 Plaintiffs' stated an inability to support children with respect to their sexual
 20 orientation or gender identity does not align with the Department's evidence-based
 21 expectations, as promulgated in the minimum licensing requirements, and that

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1 Mr. Sager suggested Plaintiffs could withdraw their application in order to avoid
 2 any adverse consequences that could result from having their license application
 3 denied by DCYF. Except as otherwise expressly admitted, Defendant denies the
 4 remainder of the allegations in paragraph 79.

5 80. Defendant admits the allegations in paragraph 80.

6 81. Defendant admits the allegations in paragraph 81, but denies that
 7 Mr. Sager said that the Department would send its denial letter “shortly.”

8 82. Defendant admits that the Department did not send a denial letter or
 9 contact Plaintiffs during the two weeks following their February 26, 2020 telephone
 10 call with Mr. Sager; but that, a week later, Mr. Sager informed Plaintiffs that he did
 11 not yet have an answer as he was waiting to for additional information. Except as
 12 otherwise expressly admitted, Defendant denies the remainder of the allegations in
 13 paragraph 82.

14 83. Defendant admits the allegations in paragraph 83.

15 84. Defendant admits the allegations in paragraph 84.

16 85. Defendant admits that Mr. Sager and Carissa Stone spoke with
 17 Plaintiffs on March 25, 2020, and that their discussion included topics related to
 18 whether Plaintiffs could support a child, including one of a younger age, who
 19 wished to dress or act in a way that was different from their assigned gender, as
 20 well as a child who identified as LGBTQ+. Except as otherwise expressly admitted,
 21 Defendant denies the remainder of the allegations in paragraph 85.

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86. Defendant admits the allegation in paragraph 86.

87. Defendant admits that Plaintiffs cooperated with the interview session and responded to the questions they were asked, but lacks knowledge or information sufficient to form a belief about the truth of the allegations that their responses were open, honest, and consistent with their religious beliefs and, therefore, denies that portion of the allegations in paragraph 87. Except as otherwise expressly admitted, Defendant denies the remainder of the allegations in paragraph 87.

88. Defendant admits the allegation in paragraph 88.

89. Defendant admits the allegation in paragraph 89.

90. Defendant admits the allegation in paragraph 90.

91. Defendant denies that Mr. Sager emailed Plaintiffs on April 5, 2020 (the email was sent April 3, 2020). Defendant admits the remainder of the allegations in paragraph 91.

92. Defendant admits the allegations in paragraph 92.

93. Defendant admits that James Blais informed Mr. Sager that Gail Blais had completed the Caregiver Core Training, but lacks knowledge or information sufficient to form a belief about the truth of the allegation that Plaintiffs completed the requested training and, therefore, denies this portion of paragraph 93. Defendant admits that Mr. Sager advised Plaintiffs not to engage in any preparation that would

1 cost them money. Except as otherwise expressly admitted, Defendant denies the
2 remainder of the allegations in paragraph 93.

3 94. Defendant admits that Plaintiffs' inability to be supportive of foster
4 children who identify or may identify as LGBTQ+ was an area of concern about
5 their ability to be acceptable licensed foster care parent applicants. Defendant also
6 admits that there may have been other areas of concern about Plaintiffs' ability to
7 be acceptable licensed foster care parent applicants. Except as otherwise expressly
8 admitted, Defendant denies the remainder of the allegations in paragraph 94.

9 **The Denial of the Blaises' Application**

10 95. Defendant admits the allegation in paragraph 95.

11 96. Defendant admits that its letter, which denied Plaintiffs' application
12 for a foster family home license and must be read in its entirety, stated that "while
13 there were many situations where [the Plaintiffs] might be able to be supportive,
14 they would not support foster children seeking counseling or necessary medical
15 services related to their sexual orientation and gender identity or expression if those
16 services were not consistent with their religious beliefs." Except as otherwise
17 expressly admitted, Defendant denies the remainder of the allegations in
18 paragraph 96.

19 97. Defendant admits the allegations in paragraph 97.

20 98. Defendant admits that Plaintiffs indicated they would not support
21 counseling or hormone treatment for a child in their care, nor would they call a

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1 foster child by their preferred name or use the foster child's preferred pronouns.
2 Defendant lacks knowledge or information sufficient to form a belief about the truth
3 of the allegations in paragraph 98 and, therefore, denies them.

4 99. Defendant admits the allegations in paragraph 99.

5 100. Defendant admits the allegations in paragraph 100.

6 101. Defendant denies that the Department "has never identified what
7 standard" Plaintiffs "would be required to meet in affirming what they would do in
8 any given future situation" to adequately support a child who identifies or may
9 identify as LGBTQ+. Defendant admits the remainder of the allegations in
10 paragraph 101.

11 102. Defendant lacks knowledge or information sufficient to form a belief
12 about the truth of the allegations in paragraph 102 and, therefore, denies them.

13 103. Defendant lacks knowledge or information sufficient to form a belief
14 about the truth of the allegations in paragraph 103 and, therefore, denies them.

15 104. Defendant lacks knowledge or information sufficient to form a belief
16 about the truth of the allegations in paragraph 104 and, therefore, denies them.

17 105. Defendant lacks knowledge or information sufficient to form a belief
18 about the truth of the allegations in paragraph 105 and, therefore, denies them.

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COUNT I
42 U.S.C. § 1983
VIOLATION OF THE FIRST AMENDMENT
TO THE U.S. CONSTITUTION
FREE EXERCISE CLAUSE NOT NEUTRAL

106. Defendant incorporates his answers, admissions, and denials to paragraphs 1-105 as though fully set forth here.

107. The allegations in paragraph 107 are legal conclusions to which no answer is required. Defendant denies the factual allegations in paragraph 107.

108. The allegation in paragraph 108 is a legal conclusion to which no answer is required. Defendant denies the factual allegation in paragraph 108.

109. Defendant admits that the decision to deny Plaintiffs' foster care application was, in part, based on their answers to Patrick Sager's questions during their interviews and in their application. Defendant denies that the decision to deny Plaintiffs' application was based on their religious beliefs; rather, the denial was based on Plaintiffs' unwillingness to provide care to foster children consistent with the children's case plan, medical needs, and their psychological and emotional well-being. Except as otherwise expressly admitted, Defendant denies the remainder of the allegations in paragraph 109.

110. The allegation in paragraph 110 is a legal conclusion to which no answer is required. Defendant denies the factual allegation in paragraph 110.

111. The allegation in paragraph 111 is a legal conclusion to which no answer is required. Defendant denies the factual allegation in paragraph 111.

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1 112. The allegation in paragraph 112 is a legal conclusion to which no
2 answer is required. Defendant denies the factual allegation in paragraph 112.

3 113. The allegations in paragraph 113 are legal conclusions to which no
4 answer is required. Defendant denies the factual allegations in paragraph 113.

5 **COUNT II**
6 **42 U.S.C. § 1983**
7 **VIOLATION OF THE FIRST AMENDMENT**
8 **TO THE U.S. CONSTITUTION**
9 **FREE EXERCISE CLAUSE – IMPOSING SPECIALIZED**
10 **DISABILITIES ON THE BASIS OF RELIGIOUS BELIEF**

11 114. Defendant incorporates his answers, admissions, and denials to
12 paragraphs 1-113 as though fully set forth here.

13 115. Defendant denies the allegation in paragraph 115.

14 116. Defendant denies the allegations in paragraph 116.

15 117. The allegation in paragraph 117 is a legal conclusion to which no
16 answer is required. Defendant denies the factual allegation in paragraph 117.

17 118. The allegation in paragraph 118 is a legal conclusion to which no
18 answer is required. Defendant denies the factual allegation in paragraph 118.

19 119. The allegation in paragraph 119 is a legal conclusion to which no
20 answer is required. Defendant denies the factual allegation in paragraph 119.

21 120. The allegation in paragraph 120 is a legal conclusion to which no
22 answer is required. Defendant denies the factual allegation in paragraph 120.

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1 121. The allegation in paragraph 121 is a legal conclusion to which no
2 answer is required. Defendant denies the factual allegation in paragraph 121.

3 122. The allegations in paragraph 122 are legal conclusions to which no
4 answer is required. Defendant denies the factual allegations in paragraph 122.

5 **COUNT III**
6 **42 U.S.C. § 1983**
7 **VIOLATION OF THE FIRST**
8 **AMENDMENT TO THE U.S. CONSTITUTION**
9 **FREE EXERCISE CLAUSE – NOT NEUTRAL**

10 123. Defendant incorporates his answers, admissions, and denials to
11 paragraphs 1-122 as though fully set forth here.

12 124. The allegation in paragraph 124 is a legal conclusion to which no
13 answer is required. Defendant denies the factual allegation in paragraph 124.

14 125. The allegations in paragraph 125 are legal conclusions to which no
15 answer is required. Defendant denies the factual allegations in paragraph 125.

16 126. The allegation in paragraph 126 is a legal conclusion to which no
17 answer is required. Defendant denies the factual allegation in paragraph 126.

18 127. The allegation in paragraph 127 is a legal conclusion to which no
19 answer is required. Defendant denies the factual allegation in paragraph 127.

20 128. The allegation in paragraph 128 is a legal conclusion to which no
21 answer is required. Defendant denies the factual allegation in paragraph 128.

22 129. The allegation in paragraph 129 is a legal conclusion to which no
answer is required. Defendant denies the factual allegation in paragraph 129.

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1 130. The allegation in paragraph 130 is a legal conclusion to which no
2 answer is required. Defendant denies the factual allegation in paragraph 130.

3 131. The allegation in paragraph 131 is a legal conclusion to which no
4 answer is required. Defendant denies the factual allegation in paragraph 131.

5 132. The allegation in paragraph 132 is a legal conclusion to which no
6 answer is required. Defendant denies the factual allegation in paragraph 132.

7 133. The allegation in paragraph 133 is a legal conclusion to which no
8 answer is required. Defendant denies the factual allegation in paragraph 133.

9 134. The allegations in paragraph 134 are legal conclusions to which no
10 answer is required. Defendant denies the factual allegations in paragraph 134.

11 **COUNT IV**
12 **42 U.S.C. § 1983**
13 **VIOLATION OF THE FIRST AMENDMENT**
14 **TO THE U.S. CONSTITUTION**
15 **FREE SPEECH—COMPELLED SPEECH**

16 135. Defendant incorporates his answers, admissions, and denials to
17 paragraphs 1-134 as though fully set forth here.

18 136. The allegation in paragraph 136 is a legal conclusion to which no
19 answer is required. Defendant denies the factual allegations in paragraph 136.

20 137. The allegation in paragraph 137 is a legal conclusion to which no
21 answer is required. Defendant denies the factual allegation in paragraph 137.

22 138. The allegations in Paragraph 138 are legal conclusions to which no
answer is required. Defendant denies the factual allegations in paragraph 138.

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1 139. Defendant admits that H.V. is an infant and that, while a majority of
2 children in foster care do not identify as LGBTQ+, a significant percentage of them
3 do so identify and are exposed to significant risk of harm if they do not receive
4 adequate support in their foster homes. Defendant also admits that every person has
5 a gender identity and a sexual orientation, even if that person does not later identify
6 as LGBTQ+, and that children begin to explore their gender identity at a young age.
7 Except as otherwise expressly admitted, Defendant denies the allegations in
8 paragraph 139.

9 140. The allegation in paragraph 140 is a legal conclusion to which no
10 answer is required. Defendant denies the factual allegation in paragraph 140.

11 141. The allegation in paragraph 141 is a legal conclusion to which no
12 answer is required. Defendant denies the factual allegation in paragraph 141.

13 142. The allegation in paragraph 142 is a legal conclusion to which no
14 answer is required. Defendant denies the factual allegation in paragraph 142.

15 143. The allegation in paragraph 143 is a legal conclusion to which no
16 answer is required. Defendant denies the factual allegation in paragraph 143.

17 144. The allegations in paragraph 144 are legal conclusions to which no
18 answer is required. Defendant denies the factual allegations in paragraph 144.

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COUNT V
42 U.S.C. § 1983
VIOLATION OF THE FOURTEENTH AMENDMENT
TO THE U.S. CONSTITUTION
SUBSTANTIVE DUE PROCESS

145. Defendant incorporates his answers, admissions, and denials to paragraphs 1-144 as though fully set forth here.

146. The allegation in paragraph 146 is a legal conclusion to which no answer is required. Defendant denies the factual allegation in paragraph 146.

147. The allegation in paragraph 147 is a legal conclusion to which no answer is required. Defendant denies the factual allegations in paragraph 147.

148. The allegation in paragraph 148 is a legal conclusion to which no answer is required. Defendant denies the factual allegation in paragraph 148.

149. The allegation in paragraph 149 is a legal conclusion to which no answer is required. Defendant denies the factual allegation in paragraph 149.

150. The allegation in paragraph 150 is a legal conclusion to which no answer is required. Defendant denies the factual allegation in paragraph 150.

151. The allegation in paragraph 151 is a legal conclusion to which no answer is required. Defendant denies the factual allegation in paragraph 151.

152. The allegations in paragraph 152 are legal conclusions to which no answer is required. Defendant denies the factual allegations in paragraph 152.

DEFENDANT'S ANSWER TO
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ATTORNEY GENERAL OF WASHINGTON
Complex Litigation Division
800 Fifth Ave., Suite 2000
Seattle, WA 98104-3188
(206) 474-7744

COUNT VI
42 U.S.C. § 1983
VIOLATION OF THE FIRST AMENDMENT
TO THE U.S. CONSTITUTION
FREE EXERCISE—HYBRID RIGHTS

153. Defendant incorporates his answers, admissions, and denials to paragraphs 1-152 as though fully set forth here.

154. The allegation in paragraph 154 is a legal conclusion to which no answer is required. Defendant denies the factual allegations in paragraph 154.

155. The allegations in paragraph 155 are legal conclusions to which no answer is required. Defendant denies the factual allegations in paragraph 155.

156. The allegation in paragraph 156 is a legal conclusion to which no answer is required. Defendants deny the factual allegation in paragraph 156.

157. The allegation in paragraph 157 is a legal conclusion to which no answer is required. Defendant denies the factual allegation in paragraph 157.

158. The allegation in paragraph 158 is a legal conclusion to which no answer is required. Defendant denies the factual allegation in paragraph 158.

159. The allegations in paragraph 159 are legal conclusions to which no answer is required. Defendant denies the factual allegations in paragraph 159.

DEFENDANT'S ANSWER TO
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Complex Litigation Division
800 Fifth Ave., Suite 2000
Seattle, WA 98104-3188
(206) 474-7744

COUNT VII
42 U.S.C. § 1983
VIOLATION OF THE FIRST AMENDMENT
TO THE U.S. CONSTITUTION
UNCONSTITUTIONAL CONDITIONS

160. Defendant incorporates his answers, admissions, and denials to paragraphs 1-159 as though fully set forth here.

161. The allegations in paragraph 161 are legal conclusions to which no answer is required. Defendant denies the factual allegations in paragraph 161.

162. The allegation in paragraph 162 is a legal conclusion to which no answer is required. Defendant denies the factual allegation in paragraph 162.

163. The allegation in paragraph 163 is a legal conclusion to which no answer is required. Defendant denies the factual allegation in paragraph 163.

164. The allegation in paragraph 164 is a legal conclusion to which no answer is required. Defendant denies the factual allegation in paragraph 164.

165. The allegations in paragraph 165 are legal conclusions to which no answer is required. Defendant denies the factual allegations in paragraph 165.

PLAINTIFFS' PRAYER FOR RELIEF

Defendant denies that Plaintiffs are entitled to entry of judgment or the relief requested in paragraphs 1 through 5 of their Amended Complaint for Preliminary and Permanent Injunction (ECF No. 30).

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Complex Litigation Division
800 Fifth Ave., Suite 2000
Seattle, WA 98104-3188
(206) 474-7744

AFFIRMATIVE DEFENSES

1. Plaintiffs' Amended Complaint for Preliminary and Permanent Injunction (ECF No. 3) fails to state facts sufficient to constitute a claim upon which relief can be granted against Defendant.

1. Plaintiffs have failed to exhaust administrative remedies.

2. Plaintiffs lack standing.

3. Plaintiffs' claims are moot.

4. Plaintiffs' claims are unripe.

5. This case is non-justiciable.

6. Abstention doctrines warrant a stay or dismissal of the case.

7. The policies and procedures of the Washington State Department of Children, Youth, and Families, as applied to Plaintiffs, are content neutral and narrowly tailored to serve a significant governmental interest.

8. The policies and procedures of the Washington State Department of Children, Youth, and Families, as applied to Plaintiffs, serve compelling state interests unrelated to, and do not violate, the seven legal claims asserted in Plaintiffs' Amended Complaint (*i.e.*, Counts I-VII, at 24-34) that could not be achieved through significantly less restrictive means.

DEFENDANT'S ANSWER TO
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Complex Litigation Division
800 Fifth Ave., Suite 2000
Seattle, WA 98104-3188
(206) 474-7744

1 9. The policies and procedures of the Washington State Department of
2 Children, Youth, and Families, as applied to Plaintiffs, are narrowly
3 tailored to advance a compelling governmental interest.

4 10. The policies and procedures of the Washington State Department of
5 Children, Youth, and Families, as applied to Plaintiffs, rationally
6 further the legitimate goals to protect children in foster care from
7 known and potential harms.

8 11. The policies and procedures of the Washington State Department of
9 Children, Youth, and Families, as applied to Plaintiffs, are
10 appropriate uses of the state's police power to protect public health
11 and welfare.

12 12. Defendant reserves the right to amend this answer and add additional
13 defenses, including affirmative defenses, as may be required after
14 further investigation in this case.

15 Wherefore, Defendant Ross Hunter respectfully requests that this Court:

- 16 1. Dismiss Plaintiffs' Amended Complaint for Preliminary and
17 Permanent Injunction with prejudice;
18 2. Deny all relief that Plaintiffs request;

19 //

20 //

21 //

22 DEFENDANT'S ANSWER TO
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- 1 3. Grant Defendant his costs and reasonable attorney fees; and
2 4. Grant Defendant such other and further relief as the Court may
3 deem just and proper.

4 DATED this 20th day of July 2020.

5 ROBERT W. FERGUSON
6 Attorney General

7 By: s/ Jeffrey C. Grant

JEFFREY C. GRANT, WSBA No. 11046
CARRIE HOON WAYNO, WSBA No. 32220
DREW PUGSLEY, WSBA No. 48566
Assistant Attorneys General

Attorneys for Defendant Ross Hunter
Office of the Attorney General
Complex Litigation Division
800 Fifth Ave., Suite 2000
Seattle, WA 98104-3188
Telephone: (206) 332-7099
Fax: (206) 447-1963
Email: Jeffrey.Grant@atg.wa.gov
Carrie.Wayno@atg.wa.gov
Drew.Pugsley@atg.wa.gov

22 DEFENDANT'S ANSWER TO
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ATTORNEY GENERAL OF WASHINGTON
Complex Litigation Division
800 Fifth Ave., Suite 2000
Seattle, WA 98104-3188
(206) 474-7744

CERTIFICATE OF SERVICE

I certify under penalty of perjury of the laws of the state of Washington and the United States that on July 20th, 2020, I caused Defendant's Answer to Plaintiffs' Amended Complaint for Preliminary and Injunctive Relief to be electronically filed with the Clerk of the Court using the CM/ECF System, which will automatically generate a Notice of Electronic Filing (NEF) to all Parties in this action who are registered users of the CM/ECF System. The NEF specifically identifies recipients of electronic notice.

ANDREW G. SCHULTZ aschultz@rodey.com

TODD R. MCFARLAND mcfarlandt@gc.adventist.org

JEROME R. AIKEN aiken@mftlaw.com

DANIEL J. SHIH dshih@susmangodfrey.com

By: s/ Jeffrey C. Grant

JEFFREY C. GRANT, WSBA No. 11046
CARRIE HOON WAYNO, WSBA No. 32220
DREW PUGSLEY, WSBA No. 48566
Assistant Attorneys General

Attorneys for Defendant
Office of the Attorney General
Complex Litigation Division
800 Fifth Ave., Suite 2000
Seattle, WA 98104-3188
Telephone: (206) 332-7099
Fax: (206) 447-1963
Email: Jeffrey.Grant@atg.wa.gov
Carrie.Wayno@atg.wa.gov
Drew.Pugsley@atg.wa.gov

DEFENDANT'S ANSWER TO
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Complex Litigation Division
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Seattle, WA 98104-3188
(206) 474-7744